IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION NOS. : 21360 of 2004 & 4861 of 2003

1) Writ Petition No. 21360 of 2004:

Between:

A.V.S. Junior College, Pulletikurru, East Godavari District,
rep. by Secretary and Correspondent N.V.Ratnam,
S/o N.B. Raju

..... PETITIONER

AND

1 State of Andhra Pradesh, rep. by its Secretary to Government,
Education Department, Secretariat, Hyderabad
2 The Commissioner of Intermediate Education, Andhra Pradesh, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring as illegal, arbitrary and unconstitutional the action of the Respondents in not considering for dereserving the post of Junior Lecturer in Maths in the Petitioner College from that of S.C.-A(W) to O.C. as was done in the case of orders issued in G.O. Rt. No. 668 Higher Education dated 13-09-2001 and issue a consequential direction to the Respondents to absorb the present incumbent into the said aided post.

Counsel for the Petitioner: MR.D.V.SITARAMAMURTHY

Counsel for the Respondents : GP FOR HIGHER EDUCATION

2) WRIT PETITION NO : 4861 of 2003

Between:

A.S.A.V. Raghavacharyulu, S/o. Venkateswarlu,
R/o. Chiratapudi, E.G. District

..... PETITIONER

AND

1 The Commissioner of Intermediate Education,
Andhra Pradesh, Hyderabad
2 A.V.S.Junior College, rep., by its Secretary & Correspondent
Pulletikurru, E.G.District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction more particularly one in the nature of Writ of Mandamus declaring as illegal and arbitrary the action of the respondents in not regularizing the services of the petitioner as Lecturer in Maths in the 2nd respondent College and issue a consequential direction to the respondents to forthwith regularize/absorb the petitioner into aided post from the date of his first appointment with all other benefits such as seniority, arrears of salary etc.

Counsel for the Petitioner: MR.D.V.SITARAMAMURTHY

Counsel for the Respondent No.1: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.2: None appeared.

The Court made the following :

COMMON ORDER:

Heard Sri G.V.Sitarama Murthy, learned counsel for the petitioners in both the cases and the learned Government Pleader for Higher Education appearing on behalf of the contesting respondents.

Since common question is involved in both the Writ Petitions, they are being taken up together for disposal.

The only question which has to be considered in these two Writ Petitions is as to whether in the facts and circumstances, the post which has been reserved for S.C.-A (W) can be permitted to be converted into that of O.C. ?

The main grievance of the petitioner is that having regard to the reservation provided for and in spite of several efforts made by issuance of notification, there is no response from any of the candidates belonging to that particular category. Therefore, necessarily the management had to make appointment of a part-time Lecturer and the petitioner in Writ Petition No. 4861 of 2003 was appointed as part-time Lecturer. In this Connection, the petitioner submits that it filed a detailed representation on 04.04.2002 before the second respondent herein, pointing out all the points and also grant of similar such permission as per G.O. Rt. No.668, dated 13.09.2001. Therefore, there is no reason as to why the petitioner is not entitled for similar such relief. Further, it is also pointed out that even Rule 22 of the A.P. State and Subordinate Services Rules, 1996 amply provides for such reservation in a given circumstance and therefore, the case has to be considered accordingly.

The Writ Petition No. 4861 of 2003 was filed by the said part-time Lecturer appointed by the petitioner in Writ Petition No.21360 of 2004 seeking his regularisation in aided post from the date of his first appointment.

Considering the submissions made on both sides and on perusal of the material, it is seen that the petitioner in the first Writ Petition virtually seeks dereservation in respect of a post which has been reserved for S.C.-A (W) to O.C. on the ground that in spite of the issuance of repeated notifications and representation filed on

04.04.2002 to the Government, there was no response. The petitioner seeks to place reliance on Rule 22 of the A.P. State and Subordinate Service Rules, 1996 and the orders passed by the Government in similar circumstances in G.O. Rt. No.668, dated 13.09.2001 as aforesaid. Be that as it may, in view of pendency of the said representation dated 04.04.2002, this Court can not go into all such aspects and the petitioner can not seek any enforcement of such claim. In the circumstances, it is felt desirable that the same can be given due consideration.

Accordingly, the Writ Petitions are disposed of directing the respondents in Writ Petition No.21360 of 2004 to consider the representation made on 04.04.2002 and pass orders on merits in accordance with law after giving notice and opportunity to both sides. The entire exercise shall be completed within a period of two months from the date of receipt of copy of this Order. No costs.

(B.Prakash Rao, J.)

05.04.2005

DRK/Chvn.

Copy to:

1 The Secretary to Government, State of Andhra Pradesh, Education Department, Secretariat, Hyderabad

2 The Commissioner of Intermediate Education, Andhra Pradesh, Hyderabad

3 Two CCS to the G.P. for Higher Education, High Court of A.P., High Court buildings, Hyderabad (o.u.t.).

4 Two CD copies.